

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

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PUBLIC EMPLOYMENT
RELATIONS BOARD

IN THE MATTER OF)	
)	
IOWA COUNTY, IOWA,)	
Public Employer,)	
)	
and)	CASE NO. 6347
)	
CHAUFFEURS, TEAMSTERS & HELPERS)	
LOCAL UNION NO. 238,)	
Certified Employee Organization.)	

ORDER

On May 29, 2001, the parties filed a joint petition seeking our issuance of a declaratory order answering the question "whether termination of an employee is an express term or provision of the Collective Bargaining Agreement [between the joint petitioners], subjecting the termination procedure to the grievance procedures set forth in the Collective Bargaining Agreement." The petition reveals that the issue arose when Local 238 sought to arbitrate a grievance concerning the County's termination of a bargaining unit employee and the County objected to arbitrating the matter on the ground that the discipline and discharge of employees is not a term or condition of the parties' agreement and is thus not arbitratable pursuant to the grievance procedure set out therein.

Chapter 10 of PERB's rules, 621-IAC ch. 10, addresses matters concerning petitions for our issuance of declaratory orders, rule 621-10.1 [as well as Iowa Code section 17A.9(1)] providing that parties may petition the Board "for a declaratory order as to the applicability to specified circumstances of a statute, rule or order within the primary jurisdiction of the agency."

The instant petition does not seek an order concerning the application of such a statute, rule or other order, as contemplated by the rule and statute, but instead asks that we interpret the parties' collective agreement.

PERB has long held that its function is not to construe collective bargaining agreements or to declare the parties' rights thereunder, except in those limited cases where a violation of an agreement is alleged to constitute a prohibited practice, or where a provision of the parties' agreement is asserted as a defense to a prohibited practice claim. See, e.g., *City of Keokuk*, 75 PERB 433.

Whether a refusal to arbitrate a particular dispute constitutes a violation of an enforceable collective agreement or not is, instead, a matter for a court's determination in a proceeding for a declaratory ruling or for enforcement of the contract pursuant to Iowa Code section 20.17(5). See, e.g., *State of Iowa v. State Police Officers Council*, 525 N.W.2d 834 (Iowa 1994); *American Federation of State, County and Municipal Employees/Iowa Council 61 v. State of Iowa*, 526 N.W.2d 282 (Iowa 1995); *Lewis Central Education Association v. Lewis Central Community School District*, 559 N.W.2d 19 (Iowa 1997).


PERB rule 621-10.9 specifies the grounds upon which we may refuse to issue a declaratory order, including the grounds that the Board does not have jurisdiction over the question presented and that the question would be more properly resolved in a different type of proceeding or by another body with jurisdiction over the matter.

We find those grounds fully applicable here. Therefore, we decline to issue a declaratory order in this matter, and the parties' joint petition is consequently DISMISSED.

DATED at Des Moines, Iowa, this 19th day of June, 2001.

PUBLIC EMPLOYMENT RELATIONS BOARD


Richard P. Moore, Chair


M. Sue Warner, Board Member


James R. Riordan, Board Member